

Notice of Allowability	Application No.	Applicant(s)	
	09/763,415	FISH, FALK	
	Examiner	Art Unit	
	Ja-Na Hines	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to October 24, 2005.
2. ☒ The allowed claim(s) is/are 1,4 and 5.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anne Kornbau on January 18, 2005.

The application has been amended as follows:

Claim 1 (Currently Amended) A method for determining the level of glucose in the blood from a non-blood sample from an individual comprising:

(i) obtaining a sample of hair or urine from said individual, said sample being a non-blood sample but containing blood components;

(ii) determining the volume of blood in the obtained sample by measuring the level of hemoglobin in said sample;

(iii) determining the amount of glucose in the sample or in the blood cells present in said non-blood sample; and

(iv) calculating the level of glucose in the blood of the individual based on the measurements in (iii) and (iv).

Withdrawal of Rejections

2. The following objections and rejections have been withdrawn in view of applicants' amendments:

- a) The objection of claims 1 and 4;
- b) The rejection of claims 1, 4-5, 7-10 and 12 under 35 U.S.C. 112, second paragraph;
- c) The rejection of claims 6 and 9 under 35 U.S.C. 102(b) as being anticipated by Albarella et al. (US Patent 5,089,420 published February 18, 1992);
- d) The rejection of claims 6-7 and 9-10 under 35 U.S.C. 103(a) as being unpatentable over Albarella et al. (US Patent 5,089,420 published February 18, 1992) in view of Paisey et al., (published in 1984);
- e) The rejection of claims 7-8 under 35 U.S.C. 103(a) as being unpatentable over Albarella et al. (US Patent 5,089,420 published February 18, 1992) and Svoboda et al., (US Patent 4,017, 261 published April 12, 1977); and
- f) The rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Paisey et al., in view of Albarella et al., (US Patent 5,089,420).

Allowable Subject Matter

3. Claims 1 and 4-5 are allowed.

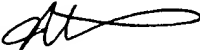
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ja-Na Hines whose telephone number is 571-272-0859.

The examiner can normally be reached on Monday-Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 571-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ja-Na Hines 

January 18, 2006


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1601